

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CHARLES STRAIN,

Plaintiff,

No. CIV S-05-0474 GEB GGH P

vs.

CHIEF MEDICAL OFFICER
R. SANDHAM, et al.,

Defendants.

FINDINGS AND RECOMMENDATIONS

Plaintiff is a state prisoner proceeding pro se and in forma pauperis with an action filed pursuant to 42 U.S.C. § 1983. By order filed July 15, 2005, plaintiff's claims against defendants Barton and Garbutt were dismissed with leave to file an amended complaint within thirty days. Plaintiff was informed that failure to file an amended complaint would result in a recommendation that these defendants be dismissed from this action and that upon filing an amended complaint or expiration of the time allowed therefor, the court would make further orders for service of process upon some or all of the defendants. Plaintiff has not filed an amended complaint and the time for doing so has expired. The court has found service upon several defendants appropriate in a concurrently filed order. However, as to defendants Barton and Garbutt, for the reasons set forth in the court's order filed on July 15, 2005, the undersigned

1 now recommends their dismissal from this action.

2 Accordingly, IT IS HEREBY RECOMMENDED that defendants Barton and
3 Garbutt be dismissed from this action.

4 These findings and recommendations are submitted to the United States District
5 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty
6 days after being served with these findings and recommendations, plaintiff may file written
7 objections with the court. Such a document should be captioned "Objections to Magistrate
8 Judge's Findings and Recommendations." Plaintiff is advised that failure to file objections
9 within the specified time may waive the right to appeal the District Court's order. Martinez v.
10 Ylst, 951 F.2d 1153 (9th Cir. 1991).

11 DATED: 10/12/05

/s/ Gregory G. Hollows

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GREGORY G. HOLLOWS
UNITED STATES MAGISTRATE JUDGE

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